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UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA

DAVID STEBBINS,

PLAINTIFF

VS.

Case 3:23-cv-00322-TLT

GOOGLE, LLC

DEFENDANTS

MOTION FOR LEAVE TO FILE MOTION FOR RECONSIDERATION

Comes now, *pro se* Plaintiff David Stebbins, who hereby submits the following Motion for Leave to File Motion for Reconsideration in the above-styled action.

1. Judgment has not been entered in this case just yet. The Court has issued a dispositive opinion, but not an actual judgment. Therefore, this motion is properly before the Court.
2. Grounds for reconsideration include, but are not limited to, “[a] manifest failure by the Court to consider material facts or dispositive legal arguments which were presented to the Court before such interlocutory order.” See L.R. 7-9(b)(3).
3. As I pointed out in the Motion to Vacate Judgment (Dkt. 73, the contents of which are hereby incorporated by reference), there were numerous facts and dispositive legal arguments I presented to the Court that the Court manifestly failed to consider in its opinion, including but not limited to ...
 - (a) ¶¶ 32-36, where the Court manifestly failed to consider the arguments I put forth in the Complaint that the background is manifestly devoid of transformative value, such as criticism or commentary.
 - (b) ¶¶ 37-42, where the Court manifestly failed to consider my argument that unclean hands serves as a counter-defense to fair use.
 - (c) ¶¶ 59-63, where the Court manifestly failed to consider my argument that the portion copied, not the work as a whole, should dictate how the 2nd factor is decided.
 - (d) ¶¶ 64-66, where the Court manifestly failed to consider my argument (supported by binding precedent) that the Defendant's uncorroborated declarations that the icon does not

create a market substitute are manifestly insufficient on their own.

4. I therefore ask the Court to grant me leave to file a motion for reconsideration.

So requested on this, the 17th day of September, 2023.

/s/ David Stebbins
David Stebbins (pro se)